

Arthur B. Davis 201

1 A. I believe so.

2 Q. And so you knew that Sea  
3 Star was looking at locations of  
4 particular equipment and putting the  
5 information into the computer system; is  
6 that right?

7 A. No.

8 Q. What did you think that Sea  
9 Star was doing?

10 A. I think that Sea Star was  
11 providing tracking for gate-in and  
12 gate-out information as it related to  
13 specific pieces of equipment that they  
14 were moving into and out of JAX and into  
15 and out of Puerto Rico.

16 Q. And was there information  
17 being provided with respect to equipment  
18 that did not move in that April, May or  
19 time through June 22nd?

20 A. As I said this was gate-in  
21 and gate-out information that they were  
22 putting into the computer system.

23 Q. As far as gate-in  
24 information is concerned, how did you

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 202

1 determine what gate-in information

2 related to shipments in process?

3 A. As I have said this morning  
4 and this afternoon, the equipment that  
5 was in transit on board the vessels could  
6 not be tracked because we, in fact, never  
7 received the manifests.

8 Q. As far as gate-out  
9 information is concerned, how did you  
10 determine what equipment was involved in  
11 shipments in process?

12 A. I repeat the answer I just  
13 gave you.

14 Q. There's another column  
15 actual off-hire. What's the meaning of  
16 that, sir?

17 A. That's the date that we  
18 believe the piece of equipment was, in  
19 fact, off-hired.

20 Q. And what is the basis of  
21 your belief?

22 A. It could be many things.  
23 It could be a TIR that was signed. It  
24 could be a sale. It could be the actual

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 203  
signed receipt of the piece of equipment.

2 It could have been on an inventory from  
3 Sea Star and then sold. There are many,  
4 many different things that would go into  
5 this.

6 Q. And how would you determine  
7 what the basis for your believe was, what  
8 your belief was on the form that you  
9 prepared?

10 A. That's what I just said.

11 Q. Is the basis of your belief  
12 specified in the comments section?

13 A. Yes. We have provided  
14 comments.

15 Q. Is that the only basis for  
16 your belief with respect to a particular  
17 piece of equipment?

18 A. We would have to go back to  
19 each individual sheet we provided on this  
20 piece of paper, general information as it  
21 related to a specific unit.

22 Q. All right. But here I am  
23 looking at PRMC120000. It is not on your  
24 page. It is on the page that I am

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 204  
looking at.

2 And this says the columns  
3 date on-hire, date off-hire, quote not on  
4 self-billing unquote. What does that  
5 mean?

6 A. That means that it was not  
7 found to be on the self-billing report.

8 Q. This indicates under  
9 comments -- well, it says actual on-hire  
10 42902 actual off-hire 101702.

11 Those are determinations  
12 that you and Lorraine Robbins made; is  
13 that correct?

14 A. That's correct.

15 Q. Under comments with respect  
16 to this piece of equipment it states  
17 quote capital G.I. capital SJ 5 / 3 / 02,  
18 capital RRTD capital JAX, capital TIR  
19 looks like 6894910 / 17 / 02, capital AR  
20 4 / 29 / 02 - 9 / 2502, capital PD zero,  
21 owes 149 days unquote. I correct that.  
22 GISJ 5302 means gate-in San Juan on May 3  
23 of 2002.

24 MR. MOLDOFF: Wouldn't

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 205  
it be better if you showed him the  
2 document.

3 MR. ARMSTRONG: I  
4 would be happy to.

5 MR. MOLDOFF: Try to  
6 answer the question.

7 BY MR. ARMSTRONG:

8 Q. Does gate-in San Juan 5302  
9 mean that it was gate-in to the Sea Star  
10 terminal in San Juan on May 3 of 2002?

11 A. What year are you talking  
12 about?

13 Q. I just gave you the year.

14 A. Well, then we went through  
15 a hole bunch of other things.

16 Q. It is the first thing, sir.

17 A. Okay, sir.

18 MR. MOLDOFF: I will  
19 make a copy if it makes it easier.

20 MR. ARMSTRONG: No, it  
21 is all right.

22 THE WITNESS: All  
23 right. On the first unit under  
24 comments we have GISJ 5302. Does

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 206  
mean gate-in San Juan 5302?

2 Q. That means that it was  
3 coming into the Sea Star terminal on May  
4 3 of 2002; is that correct?

5 A. That's correct.

6 Q. What's the next event that  
7 you show?

8 A. Returned to JAX with a TIR  
9 on October 17 of 2002.

10 Q. And that was a time when  
11 Sea Star was moving Emerald equipment to  
12 JAX?

13 A. No.

14 MR. MOLDOFF:

15 Objection.

16 Q. It wasn't?

17 A. Emerald equipment was being  
18 moved to JAX, to everywhere else from the  
19 very beginning of when Sea Star started  
20 to handle the customer base of NPR,  
21 Incorporated.

22 Q. All right.

23 You have a gate-in San  
24 Juan?

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 207

1 A. That is correct.

2 Q. May 3rd of 2002?

3 A. Yes.

4 Q. Your next event is return

5 to JAX; is that correct?

6 A. That's correct.

7 Q. You don't show a gate-out

8 San Juan, is that right?

9 A. That is right.

10 Q. So am I correct in

11 understanding that according to that

12 record that piece of equipment was

13 sitting in the terminal in San Juan from

14 May 3rd of 2002 through October 17 of

15 2002?

16 MR. MOLDOFF: Object

17 to the form of the question.

18 A. No.

19 Q. And why am I incorrect?

20 A. Because in October 17th

21 of --

22 First of all, I would need

23 to see the sheet to see if there were

24 other things on a particular piece of

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 208

1 paper.

2 Assuming for the moment  
3 that there is not, this piece of  
4 equipment was, in fact, returned to JAX.

5 Had we been provided with  
6 the manifests and such that we asked for  
7 we would be able to know the rest of the  
8 information as to what happened with this  
9 piece of equipment.

10 In the event that -- go  
11 ahead.

12 Q. Perhaps you did not  
13 understand my question.

14 A. I thought what you asked  
15 was --

16 Q. -- According to your  
17 comments.

18 MR. MOLDOFF: Let him  
19 finish.

20 A. Did this piece of  
21 equipment sit in San Juan until the 17th  
22 of October of 2002?

23 Q. According to your comment  
24 that's what the record shows, does it

ESQUIRE DEPOSITION SERVICES



Arthur B. Davis 209

1 not?

2 A. It does not.

3 Q. Where does the record show  
4 that there was a gate-out San Juan  
5 between May 3rd of 2002 and October 17th  
6 of 2002?

7 A. I will answer you again.  
8 If we had been in receipt of all of the  
9 documentation that we were supposed to  
10 receive then we would not have so many  
11 problems with this.

12 We could have sit down and  
13 worked all of these things out. We did  
14 not receive it. This container or  
15 chassis didn't fly to JAX. It was on a  
16 ship.

17 Q. Yes, sir.

18 A. So it's could not have sat  
19 in the terminal in San Juan until the  
20 17th day of October. It went out of San  
21 Juan prior to the 17th day of October.

22 Q. That's a good point.

23 A. And, in fact, then was in  
24 use with Sea Star.

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Arthur B. Davis 210

1 Q. How was it in use by Sea

2 Star?

3 A. How was it not in use by

4 Sea Star? Sea Star didn't out of the

5 goodness of their heart decide to move a

6 piece of equipment from San Juan, a lone

7 chassis, back to JAX just to return it.

8 That didn't happen.

9 They used San Juan as a

10 dumping point for one ways wherever they

11 could.

12 Q. Do you have any

13 documentation on that, sir? Have you

14 produced all the documentation that you

15 have in that regard?

16 A. I believe we have.

17 MR. MOLDOFF: To make

18 the record clear, I think what Mr.

19 Davis said is Sea Star has not

20 produced the documents. We

21 requested the manifests which would

22 have that information.

23 MR. ARMSTRONG: I

24 won't bother to comment on that.

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Arthur B. Davis 211

1 There were 13,000 pages of  
2 documents, more or less, produced  
3 with respect to equipment movements  
4 on board.

5 THE WITNESS: To  
6 finish your line if I may and  
7 pardon my interrupting.

8 MR. ARMSTRONG: Yes.  
9 There's not a question pending.

10 THE WITNESS: I want  
11 to finish this because let's finish  
12 the rest of the line.

13 I have it as a TIR for unit  
14 120000 coming into JAX on October  
15 17th.

16 The rest of the information  
17 came from Andy Rooks. That's on  
18 that line. Or Andy Rooks said this  
19 equipment was on-hire by Sea Star  
20 Line 44902 through September 25th  
21 of 2002, he paid zero and he owes  
22 149 days.

23 BY MR. ARMSTRONG:

24 Q. Where does Andy Rooks show

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 212  
that equipment was on-hire by Sea Star

2 Line?

3 A. It was on a group of papers  
4 that we returned as part of the  
5 information that was provided to us and  
6 it was one page out of 66 total pages of  
7 information provided to us by Andy Rooks  
8 when he started to review our invoices  
9 and it was not on the self-billing  
10 report. That's what the capital AR  
11 references --

12 Q. -- Is that how you  
13 determined that an unit is not on the  
14 self-billing reports would be subject to  
15 rent?

16 A. These were his comments.  
17 We used Sea Star information from their  
18 own self-billing reports.

19 We used other information  
20 such as TIRs, so Sea Star themselves  
21 say -- Andy Rooks himself says I did not  
22 have it on the self-billing reports. I  
23 owe you 149 days. I returned it on the  
24 September 25th, but guess what he didn't.

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Arthur B. Davis 213

1 He returned it on October 17th as  
2 evidenced by a TIR issued in JAX number  
3 68949.

4 Q. In that line that you are  
5 reading there, where does it say that  
6 Andy Rooks says that the --

7 A. -- That's AR.

8 Q. That's not actual rent?

9 A. Correct. That's Andy  
10 Rooks.

11 Q. What's the meaning in your  
12 forms of quote terminated and not  
13 terminated unquote?

14 A. Some of the equipment was  
15 in fact off-hired. Some of the equipment  
16 was never off-hired.

17 Q. Is there equipment that is  
18 still on-hire?

19 A. Not as far as I am  
20 concerned.

21 Q. Why not?

22 A. Because the lease was  
23 canceled.

24 Q. These schedules were

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 214  
amended at various times, were they not?

2 A. They were amended at  
3 various times because we were reacting to  
4 equipment that was being found as it was  
5 being found.

6 Q. All right.

7 Mr. Davis, and in your  
8 document production you have produced  
9 some amendments that were made during the  
10 period, I believe May through August of  
11 2004.

12 Do you recall that?

13 A. Say that again.

14 Q. You have produced some  
15 amended schedules apparently dated  
16 between May and August of 2004. Do you  
17 recall that?

18 A. Sure.

19 Q. Have you prepared any other  
20 amendments after August of 2004?

21 A. It is ongoing.

22 Q. What is ongoing?

23 A. Invoicing.

24 Q. So your schedules are not

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 215  
1 the same today that they were in August  
2 of 2004?

3 A. We haven't really adjusted  
4 too many.

5 Q. Which ones have you  
6 adjusted?

7 A. We had adjusted, after we  
8 received the documents under discovery,  
9 we had adjusted for 16 days for a period  
10 of May 16 through May 30th where the  
11 original self-billing report that we  
12 received and MBC Leasing received only  
13 included certain payments, and  
14 acknowledgement of certain units and not  
15 all the units, but we were never in --  
16 never did get the balance of the detail  
17 of the self-billing reports.

18 So we went back to provide  
19 the credit for the 16 days because they  
20 paid for it, just wouldn't give us the  
21 detail for it.

22 Q. Did you do anything else  
23 that you recall?

24 A. I know that we have looked

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 216  
2 at some of the Sea Star TIRs that were  
3 provided and some of those TIRs show  
4 gate-out which is an earlier date than  
5 what we had.

6 So we will be adjusting the  
7 bills accordingly and if the TIRs shows  
8 that it goes the other way and it wasn't  
9 taken back out again then we can give  
10 credit where it is due.

11 Q. Did you find any  
12 duplication of unit numbers in your  
13 schedules?

14 A. I am not sure I understand  
15 your question.

16 Q. Did you review the  
17 schedules to determine whether there were  
18 duplications with respect to the same  
19 unit, that is you had listed the same  
20 unit twice?

21 A. There are many instances  
22 where the unit is listed twice, but it is  
23 also listed twice because you had more  
24 than one thing that happened.

It could have come into

ESQUIRE DEPOSITION SERVICES



Arthur B. Davis 217  
1 Packer Avenue Marine Terminal and gone  
2 back out. Come back in or gone back out  
3 again or vice versa and then ended up in  
4 JAX.

5 But the report is repeat  
6 with -- not on the self-billing report.

7 We show a gate-in to JAX  
8 CSX Railroad from a third party and then  
9 returned to JAX four months later with a  
10 TIR not on the self-billing report, but  
11 Andy says okay, I really think I owe you  
12 June 25 to October 17th, I paid you zero  
13 I owe you 114 days. In that case it was  
14 the same dates , but the bills -- they  
15 speak for themselves and that kind of  
16 thing is over and over and over again.

17 Q. What do you mean when you  
18 say over and over and over again?

19 A. Where it is not on the  
20 self-billing report, but it went out of  
21 Packer Avenue Marine Terminal and was  
22 returned someplace with a TIR or it was  
23 sold in Puerto Rico.

24 Q. In terms of saying it went

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 218  
2 out of Packer Avenue Marine Terminal, am  
3 I correct in understanding that you could  
4 not or did not determine whether it went  
5 out as a shipment in process in late July  
6 or early may?

7 A. If it did -- did you  
8 determine? I couldn't determine for the  
9 same reasons I have said before.

10 Q. All right.

11 Mr. Davis, on the DV  
12 listings, have you amended those in the  
13 last few months?

14 A. I don't believe so.

15 Q. How did you determine that  
16 the units listed on these DV schedules  
17 were units that were actually used by Sea  
18 Star?

19 A. You would have to go back  
20 to each individual unit to see.

21 Q. And did you go back to each  
22 individual unit then to ascertain that  
23 there was an equipment interchange  
24 agreement showing delivery of that unit  
to Sea Star?

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Arthur B. Davis 219

1 A. Sea Star had already been  
2 using all of the equipment that they had  
3 in-house on hand since the beginning of  
4 May, so by the time we got to this other  
5 written agreement, which was to be  
6 effective as of 4 / 29 five and a half  
7 months had already passed. It didn't  
8 make any difference. They had and used  
9 what they had and what they used.

10 Q. And how did you tell from  
11 the DV schedule that equipment you have  
12 listed was not being paid by NPR as of  
13 April 26th of 2002, but was missing or  
14 POS as of that date?

15 A. Because there had to be  
16 some basis upon which to start to bill it  
17 in the first place.

18 Q. That's fine.

19 Now, tell me what the basis  
20 for starting to bill equipment listed on  
21 the DV schedule was when you prepared  
22 those schedule?

23 A. It's those same basis as  
24 the actual billing that we did. We took

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 220

1 the Sea Star self-billing reports. We  
2 took gate-in and gate-out information.  
3 We took TIR data. We took third party  
4 information.

5 Q. What third party  
6 information did you get?

7 A. From CSX, from CSX Rail,  
8 from information provided at depots by  
9 Sea Star Line, TIR gate-out, but it never  
10 came back anywhere. If it never came  
11 back anywhere then the unit wasn't  
12 returned.

13 Q. Did you take third party  
14 information from the Dominican Republic?

15 A. I did not receive any third  
16 party information from the Dominican  
17 republic to the best of my knowledge.

18 Q. Did you ask any third party  
19 in the Dominican republic as to equipment  
20 that they were holding?

21 A. I was not aware of them  
22 holding equipment.

23 Q. You were not?

24 A. No.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 221

1 Q. All right.

2 Mr. Davis, did you ask  
3 anybody about equipment in the Dominican  
4 Republic?

5 A. If the equipment was, in  
6 fact used by Sea Star it was Sea Star  
7 Line's responsibility to return that  
8 equipment no matter where it went.

9 Q. Are you saying this  
10 afternoon that you have never been aware  
11 that third parties in the Dominican  
12 Republic have held Emerald equipment that  
13 was leased by NPR, Incorporated for the  
14 reason that NPR, Incorporated and Emerald  
15 didn't pay their bills?

16 A. That Emerald didn't pay its  
17 bills. Emerald didn't have bills to pay.

18 Q. That's probably the way it  
19 was set up, but are you saying this  
20 afternoon that you have never been aware  
21 that parties in the Dominican Republic  
22 have held Emerald equipment because of  
23 NPR, Incorporated's failure to pay bills  
24 such as bills for stevedoring or terminal

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 222  
1 operations?

2 A. Teddy Hineson, I went to  
3 the DV with Marty McDonald and met with  
4 Teddy Hineson who said I think that I am  
5 entitled to the NPR, Incorporated  
6 equipment.

7 We said you are not  
8 entitled to the NPR -- I mean Emerald  
9 equipment because NPR, Incorporated did  
10 not pay you and, in fact, much of that  
11 equipment was, in fact recovered and paid  
12 for and credit was given to Sea Star if  
13 Sea Star had used it.

14 Q. You knew that there were  
15 other vendors unquote that were holding  
16 Emerald equipment in the Dominican  
17 Republic, did you not?

18 A. That is the only one that  
19 comes to mind. When we did an invoice to  
20 Sea Star, if Sea Star Line used the piece  
21 of equipment and didn't return the piece  
22 of equipment Sea Star had to pay for the  
23 piece of equipment.

24 Q. You invoiced Sea Star for  
ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 223  
2 Emerald equipment that you knew was in  
3 the Dominican Republic and being held by  
4 vendors on and after April 26th of 2002,  
5 did you not?

6 MR. MOLDOFF: Object  
7 to the form of the question.

8 A. No.

9 Q. Let me show you a copy of a  
10 letter dated --

11 A. -- because if Sea Star had  
12 the piece of equipment and they used the  
13 piece of equipment then it was up to Sea  
14 Star to do whatever it was going to do  
15 with the piece of equipment.

16 The record reflects in  
17 those beginning weeks that equipment came  
18 from the Dominican Republic as well as to  
19 the Dominican Republic. Look at your own  
20 load summaries.

21 Again you did not provide  
22 manifests for the Samone J. or The  
23 Trader. You provide load summaries, not  
24 the same, but your own load summaries  
show hundreds and hundreds and hundreds

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 224  
2 of pieces of equipment going to and from  
3 the Dominican Republic as well as to  
4 other island.

5 Your own e-mails talk about  
6 the fact that there will be an abrupt  
7 stop to the movement of equipment in the  
8 Dominican Republic. We are going to  
9 abruptly stop the service.

10 Did Sea Star do anything to  
11 bring the equipment that was there that  
12 they sent back to Puerto Rico? I don't  
13 know, but if they sent it there in August  
14 and there was an abrupt stop in October  
15 that's not me that has to pay for it. It  
16 is Sea Star that has to pay for it.

17 Q. Please try to concentrate  
18 on the period April 26th, 27th of 2002.

19 You knew, did you not, that  
20 as of April 26th, 27th of 2002 vendors in  
21 the Dominican Republic were holding  
22 Emerald equipment because of NPR,  
23 Incorporated's failure to pay their  
24 bills?

A. No.

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Arthur B. Davis 225

1 Q. No one told you that?

2 A. That is right.

3 Q. Okay. Let me show you a  
4 copy a letter dated April 11 of 2002, I  
5 ask the court reporter to mark as exhibit  
6 33 for identification.

7 - - -

8 (Whereupon, Exhibit  
9 Number 33 was marked for  
10 identification.)

11 - - -

12 BY MR. ARMSTRONG:

13 Q. Do you recognize that  
14 letter?

15 A. I only recognize it from  
16 when I was providing documents on the  
17 document production request.

18 Q. Let me show you copies of  
19 some e-mails that I will ask the court  
20 reporter to mark as exhibit 34 for  
21 identification.

22 - - -

23 (Whereupon, Exhibit  
24 Number 34 was marked for

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 226  
identification.)

2 - - -

3 BY MR. ARMSTRONG:

4 Q. Do you recognize those  
5 documents?

6 A. Yes, I do.

7 Q. As of May 9th of 2002, were  
8 you billing Sea Star Line for Emerald  
9 Leasing equipment located at Illinois  
10 Auto?

11 MR. MOLDOFF: While  
12 he's looking at that I am going to  
13 get this copied.

14 A. In regard to Illinois  
15 Auto --

16 MR. MOLDOFF: Wait.  
17 Wait. Wait until I come back.

18 - - -

19 (Whereupon, a short  
20 recess was taken.)

21 - - -

22 THE WITNESS: In  
23 regard to Illinois Auto, I believe  
24 we started to bill on the May 8th.

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Arthur B. Davis 227

1 Q. You knew that Illinois Auto  
2 was holding equipment and refusing to  
3 release it to Sea Star, did you not?

4 MR. MOLDOFF: Object  
5 to the form of the question.

6 THE WITNESS: That's  
7 not incorrect.

8 BY MR. ARMSTRONG:

9 Q. When did you begin billing  
10 for equipment held at Fast Lane?

11 A. When it left Fast Lane.

12 Q. When was that?

13 A. Whenever it left.

14 Q. Were you billing Sea Star  
15 for equipment at Fast Lane on May 9 of  
16 2002?

17 A. I don't know.

18 Q. When did you begin billing  
19 Sea Star for equipment at Global  
20 Intermodem?

21 A. Whenever it was taken out.

22 Q. Was that equipment taken  
23 out before May 9th of 2002?

24 A. I don't know.

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Arthur B. Davis 228

1 Q. Were you billing Sea Star  
2 for equipment located at Empire Truck  
3 Lines on May 9 of 2002?

4 A. I don't know.

5 Q. Let me show you a copy of  
6 an e-mail dated May 13th of 2002 which I  
7 will ask the court reporter -- I'm  
8 sorry -- a series of e-mails dated May  
9 13th of 2002 that I will ask the court  
10 reporter to mark as exhibit 35 for  
11 identification.

12 - - -

13 (Whereupon, Exhibit  
14 Number 35 was marked for  
15 identification.)

16 - - -

17 BY MR. ARMSTRONG:

18 Q. Do you recognize those?

19 A. Yes, I do.

20 Q. Did you not know on May 13  
21 of 2002 that Illinois Auto was still  
22 refusing to release Emerald equipment?

23 A. I did not.

24 Q. Lorraine Robbins did not

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 229

1 discuss that with you?

2 A. I did not know.

3 Q. What was Lorraine's Robbins

4 position with respect to the Emerald

5 Equipment Leasing, what were her duties?

6 MR. MOLDOFF: Asked

7 and answered.

8 A. She was working with me to

9 review all of the data and we started to

10 create invoices accordingly.

11 Q. Who is Jack Mohnacs

12 M-O-H-N-A-C-S?

13 A. He was inhouse counsel.

14 Q. Inhouse counsel for whom?

15 A. One of the old companies.

16 Q. Let me show you a copy of

17 an e-mail dated June 7th of 2002 that I

18 will ask the court reporter to mark as

19 exhibit 36 for identification.

20 - - -

21 (Whereupon, Exhibit

22 Number 36 was marked for

23 identification.)

24 - - -

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Arthur B. Davis 230

1 BY MR. ARMSTRONG:

2 Q. Do you recognize that  
3 document?

4 A. Yes, I do.

5 Q. Do you recall whether you  
6 removed the equipment from the vessel?

7 A. Yes, we did.

8 Q. Let me show you a copy of  
9 an e-mail dated June 7th of 2002 that I  
10 will ask the court reporter to mark as  
11 exhibit 37 for identification.

12 - - -

13 (Whereupon, Exhibit  
14 Number 37 was marked for  
15 identification.)

16 - - -

17 BY MR. ARMSTRONG:

18 Q. Do you recognize that  
19 document?

20 A. Only from when it was  
21 produced.

22 Q. Let me show you a copy of a  
23 memo together with attachments that I  
24 will ask the court reporter to mark as

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 231  
exhibit 38 for identification.

2 - - -

3 (Whereupon, Exhibit  
4 Number 38 was marked for  
5 identification.)

6 - - -

7 BY MR. ARMSTRONG:

8 Q. Do you recognize those  
9 documents?

10 A. Yes, I do.

11 Q. Whose signature is on the  
12 first page?

13 A. Martin McDonald.

14 Q. And what are the documents  
15 comprising exhibit 38?

16 A. Are you asking me to tell  
17 you what --

18 Q. -- To your knowledge what  
19 are they?

20 A. It is a listing of stacks  
21 of chassis that Marty signed for on July  
22 10th of 2002.

23 Q. Did he discuss signing that  
24 with you before he signed?

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 232

1 A. I would think he did.

2 Q. Do you recall?

3 A. I think so so.

4 Q. Let me show did you a copy  
5 of a memo together with an attached list  
6 which I will ask the court reporter to  
7 mark as exhibit 39 for identification.

8 - - -

9 (Whereupon, Exhibit  
10 Number 39 was marked for  
11 identification.)

12 - - -

13 BY MR. ARMSTRONG:

14 Q. Do you recognize those  
15 documents?

16 A. Yes.

17 Q. Do you recognize the  
18 signature on the first page?

19 A. Yes.

20 Q. Is that Martin McDonald?

21 A. It is.

22 Q. And what are these  
23 documents?

24 A. This is a list of 45 foot

ESQUIRE DEPOSITION SERVICES



Arthur B. Davis 233

1 containers that he signed for.

2 Q. Let me show you a copy of a  
3 memo together with attachment dated July  
4 12 of 2002 which I will ask the court  
5 reporter to mark as exhibit 40 for  
6 identification.

7 - - -

8 (Whereupon, Exhibit  
9 Number 40 was marked for  
10 identification.)

11 - - -

12 BY MR. ARMSTRONG:

13 Q. Do you recognize those  
14 documents?

15 A. Yes.

16 Q. What are those documents?

17 A. These are nine 45 foot  
18 chassis that he signed for.

19 Q. Those were in inventory?

20 A. He signed for the receipt  
21 of these nine pieces.

22 Q. Did he investigate whether  
23 the nine pieces were actually on the  
24 premises before he signed for them?

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 234

1 A. I would hope so.

2 Q. Are those pieces that you  
3 were going to move to showroom?

4 A. I am not sure where these  
5 would have gone.

6 Q. Let me show you a copy of a  
7 memo together with attachment dated July  
8 17th of 2002 that I will ask the court  
9 reporter to mark as exhibit 41 for  
10 identification.

11 - - -

12 (Whereupon, Exhibit  
13 Number 41 was marked for  
14 identification.)

15 - - -

16 BY MR. ARMSTRONG:

17 Q. Do you recognize those  
18 documents?

19 A. Not particularly.

20 Q. Let's now show you a copy  
21 of a letter dated July 18 of 2002  
22 together with attachments that I will ask  
23 the court reporter to mark as exhibit 42  
24 for identification.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 235

1 - - -

2 (Whereupon, Exhibit  
3 Number 42 was marked for  
4 identification.)

5 - - -

6 BY MR. ARMSTRONG:

7 Q. Do you recognize the letter  
8 and the attachments?

9 A. I think so.

10 Q. Do you recall whether you  
11 communicated with anyone at Sea Star Line  
12 regarding the contents of the Hine  
13 letters?

14 A. I don't recall.

15 Q. Let me show you a copy of  
16 an e-mail together with attachments dated  
17 July 23rd of 2002 which I will ask the  
18 court reporter to mark as exhibit 43 for  
19 identification.

20 - - -

21 (Whereupon, Exhibit  
22 Number 43 was marked for  
23 identification.)

24 - - -

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 236

1 BY MR. ARMSTRONG:

2 Q. Do do you recall receiving  
3 that e-mail and the attachments?

4 A. I think so.

5 Q. And did you communicate  
6 with anyone from Sea Star regarding that  
7 e-mail?

8 A. I believe I did.

9 Q. With whom did you  
10 communicate?

11 A. Andy Rooks.

12 Q. What was the substance of  
13 your communication with Andy Rooks?

14 A. I believe that it would  
15 have -- we would have talked about what  
16 equipment was -- what or when the  
17 equipment would have gone into any of  
18 these terminals, these inland -- what do  
19 you call them? Inland depots.

20 Q. Were you billing Sea Star  
21 for that equipment?

22 A. I would have to go back to  
23 each individual item in order to  
24 determine that.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 237

1 Q. Let me show you a copy of  
2 an e-mail dated August 9th of 2002 --

3 A. -- If I may, just to go  
4 back into this for a second. I notice  
5 one of the terminals, inland depots  
6 that's listed on her is Worthy Cartage in  
7 Cincinnati which is a Sea Star Line  
8 depot.

9 Q. Let me show you a copy of  
10 an e-mail dated August 9th of 2002 that I  
11 will ask the court reporter to mark as  
12 exhibit 44 for identification.

13 - - -

14 (Whereupon, Exhibit  
15 Number 44 was marked for  
16 identification.)

17 - - -

18 BY MR. ARMSTRONG:

19 Q. Do you recall receiving  
20 that e-mail?

21 A. Yes, I do.

22 Q. After your receipt did you  
23 take any action?

24 A. I did.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 238

1 Q. What action did you take?

2 A. I called the gentleman to  
3 find out if he had the equipment.

4 Q. What did he say?

5 A. No.

6 Q. Were you billing Sea Star  
7 for that equipment?

8 A. I would have to find out by  
9 going to each individual unit.

10 Q. Let me show you a copy of  
11 an e-mail dated August 12 of 2002 that I  
12 will ask the court reporter to mark as  
13 exhibit 45 for identification.

14 - - -

15 (Whereupon, Exhibit  
16 Number 45 was marked for  
17 identification.)

18 - - -

19 BY MR. ARMSTRONG:

20 Q. Do you recall receiving  
21 that e-mail?

22 A. I remember this.

23 Q. After receiving the e-mail  
24 did you take any action?

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 239

1 A. I did.

2 Q. What action did you take?

3 A. I was in contact with the  
4 rail yard about the chassis.

5 Q. Were you billing Sea Star  
6 for that chassis?

7 A. I would have to go back to  
8 the billing.

9 Q. Let me show you a copy of  
10 an e-mail dated October 4 of 2002 that I  
11 will ask the court reporter to mark as  
12 exhibit 46 for identification.

13 - - -

14 (Whereupon, Exhibit  
15 Number 46 was marked for  
16 identification.)

17 - - -

18 BY MR. ARMSTRONG:

19 Q. Do you recall receiving  
20 that e-mail?

21 A. I do.

22 Q. After after you received  
23 that e-mail what action did you take?

24 A. I contacted Mr. Adams at

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 240

1 Sarah Lee.

2 Q. Were you billing Sea Star  
3 for that unit or those units?

4 A. I would have to go back to  
5 the individual units to determine that.

6 Q. Did you recover those  
7 units?

8 A. I would have to go back to  
9 the individual units.

10 Q. Let me show you a copy of  
11 two e-mails dated October 10 of 2002  
12 which I will ask the court reporter to  
13 mark as exhibit 47 for identification.

14 - - -

15 (Whereupon, Exhibit  
16 Number 47 was marked for  
17 identification.)

18 - - -

19 BY MR. ARMSTRONG:

20 Q. Do you recognize those  
21 documents?

22 A. I think so.

23 Q. Were you aware that Global  
24 in Memphis was holding equipment?

ESQUIRE DEPOSITION SERVICES



Arthur B. Davis 241

1 A. I don't recall at this

2 time.

3 Q. After you received the  
4 e-mail from Lisa Florence, do you recall  
5 taking any action?

6 A. I don't remember.

7 Q. Were you billing Sea Star  
8 for the equipment?

9 A. I would have to go back to  
10 each individual unit.

11 Q. Let me show you a copy of  
12 an e-mail or two e-mails dated November  
13 1st of 2002 that I will ask the court  
14 reporter to mark as exhibit 48 for  
15 identification.

16 - - -

17 (Whereupon, Exhibit  
18 Number 48 was marked for  
19 identification.)

20 - - -

21 BY MR. ARMSTRONG:

22 Q. Do you recognize that? Do  
23 you recall those e-mails?

24 A. Yes, I do.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 242

1 Q. Do you recall what the --

2 whether the problem was resolved?

3 A. No, I don't.

4 Q. Do you recall what action

5 you took?

6 A. I don't.

7 Q. Let me show you a copy of

8 an e-mail dated December 16 of 2002. It

9 is together with other e-mails that I

10 will ask the court reporter to mark as

11 exhibit 49 for identification.

12 - - -

13 (Whereupon, Exhibit

14 Number 49 was marked for

15 identification.)

16 - - -

17 BY MR. ARMSTRONG:

18 Q. Do you recognize those

19 documents.

20 A. Yes, I do.

21 Q. All right.

22 MR. MOLDOFF: Off the

23 record.

24 - - -

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 243

1 (Whereupon, a  
2 discussion was held off the  
3 record.)

4 - - -

5 BY MR. ARMSTRONG:

6 Q. Do you recognize that  
7 document exhibit 49?

8 A. I do.

9 Q. You say in part quote I  
10 want to move some equipment back to JAX.  
11 What's the cost to your pier in JAX?

12 Did you receive a cost from  
13 Mr. Rooks?

14 A. I don't remember if I  
15 received it from Mr. Rooks or Mr. Bates.

16 Q. Did you move the equipment  
17 back to JAX?

18 A. We did.

19 Q. Where was the equipment  
20 located before you moved it to JAX?

21 A. In San Juan.

22 Q. Where in San Juan?

23 A. Inside the port -- inside  
24 the terminal that Sea Star had.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 244

1 Q. Did you charge Sea Star per  
2 diem for that equipment through the time  
3 that it arrived in JAX?

4 A. I would have to look at  
5 each individual piece of equipment.

6 Q. You say quote can we leave  
7 the chains on the stacked chassis and  
8 return them to you in JAX unquote. What  
9 does that mean?

10 A. I am not quite sure I see  
11 where you are reading.

12 Evidently the chassis had  
13 already been stacked and there were  
14 chains on them and I asked if as opposed  
15 to taking off the chains and putting  
16 chains back on could we just leave the  
17 chains that was already on on the  
18 equipment until it was in JAX.

19 Q. And what was the response?

20 A. I don't remember.

21 Q. Did you take chains off,  
22 the chains off in JAX?

23 A. I believe that the chains  
24 were returned by Alex Garcia of the AGA

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 245

1 Group who was the one that actually moved  
2 the chassis.

3 Q. Moved the chassis from  
4 where to where?

5 A. From San Juan back to the  
6 states.

7 Q. Sea Star did not move the  
8 chassis from San Juan back to the  
9 continental United States?

10 A. I believe they did, but I  
11 believe the company that actually paid  
12 for the freight, if my recollection is  
13 correct, was AGA Group.

14 Q. Let me show you a copy of a  
15 handwritten document that I will ask the  
16 court reporter to mark as exhibit 50 for  
17 identification.

18 - - -

19 (Whereupon, Exhibit  
20 Number 50 was marked for  
21 identification.)

22 - - -

23 BY MR. ARMSTRONG:

24 Q. Did you prepare that

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 246

1 document?

2 A. I did.

3 Q. Did you send it to

4 Lorraine?

5 A. I did.

6 Q. What did you mean when you  
7 said quote we both know he will love that  
8 part unquote?

9 A. What I meant very simply is  
10 so many pieces of equipment were found to  
11 be missing from the self-billing report  
12 and at that point we had just been  
13 putting bill after bill after bill in.

14 Q. Let me show you a copy of  
15 an e-mail or series of e-mails which I  
16 will ask the court reporter to mark as  
17 exhibit 51 for identification.

18 - - -

19 (Whereupon, Exhibit  
20 Number 51 was marked for  
21 identification.)

22 - - -

23 BY MR. ARMSTRONG:

24 Q. Do you recognize those

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 247

1 e-mails?

2 A. Yes.

3 Q. March 5th of 2003, second  
4 paragraph you state quote on a separate  
5 issue what are your thoughts in regard to  
6 the chains and binders unquote.

7 Are those the same chains  
8 that you were referencing in December of  
9 2002?

10 A. Are you talking about the  
11 previous exhibit?

12 Q. Yes, sir, but I believe  
13 that it is December 16 of 2002, exhibit  
14 49?

15 A. No.

16 Q. So these were more chains?

17 A. That is right.

18 Q. And did you reach a  
19 settlement with respect to these chains  
20 and binders?

21 A. I don't believe so.

22 Q. Have you ever paid for the  
23 chains and binders?

24 A. No.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 248

1 Q. Has Emerald ever paid for

2 the chains and the binders?

3 A. Not to my knowledge.

4 Q. Why not?

5 A. I don't believe we agree on

6 what was missing and what was provided in

7 the first place.

8 Q. Where are the stacks to

9 which the chains and binders were affixed

10 now?

11 A. They could be anywhere,

12 sold, could be any place.

13 Q. Did you tell sell them with

14 the chains and the binders on them?

15 A. No.

16 Q. Did you take the chains and

17 binders off before you sold them?

18 A. Certainly.

19 Q. What did you do with the

20 chains and the binders after you took

21 them off?

22 A. They were put into

23 containers.

24 Q. And where are those

ESQUIRE DEPOSITION SERVICES



Arthur B. Davis 249

1 containers?

2 A. Probably sold.

3 Q. You sold the containers,  
4 but were the chains and the binders in  
5 them?

6 A. No.

7 Q. What did you do with the  
8 chains and the binders when you sold the  
9 containers?

10 A. The containers were sold  
11 after the chains and the binders were  
12 removed.

13 Q. What did you do with the  
14 chains and binders when you removed them  
15 from the containers?

16 A. Gave them to Sea Star.

17 Q. You gave these chains and  
18 binders back to Sea Star?

19 A. That is right.

20 Q. When did you do that?

21 A. I am really not sure.

22 Q. Do you have any receipts  
23 for that?

24 A. Yes.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 250

1 Q. Where are those receipts

2 located?

3 A. Right at this second I

4 don't know.

5 Q. Let me show you a copy of

6 an e-mail dated March 6th of 2003 that I

7 will ask the court reporter to mark as

8 exhibit 52 for identification.

9 - - -

10 (Whereupon, Exhibit

11 Number 52 was marked for

12 identification.)

13 - - -

14 BY MR. ARMSTRONG:

15 Q. Do you recognize that

16 document?

17 A. Yes, I do.

18 Q. Is that a true and correct

19 copy of an e-mail that you received?

20 A. I think so.

21 Q. Let me show you a copy of

22 an e-mail dated March 19 of 2003 that I

23 will ask the court reporter to mark as

24 exhibit 53 for identification.

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 251

1

- - -

2

(Whereupon, Exhibit

3

Number 53 was marked for

4

identification.)

5

- - -

6

BY MR. ARMSTRONG:

7

Q. Do you recognize that

8

document?

9

A. I think I recognize this.

10

Q. And toward the bottom of

11

the page there's a reference to

12

approximately 800 chains and binders. Do

13

you see that?

14

A. I do.

15

Q. What happened to those?

16

A. I couldn't say. At this

17

time I don't know.

18

Q. Let me show you a copy of a

19

letter dated July 9th of 2003 that I will

20

ask the court reporter to mark as exhibit

21

54 for identification.

22

- - -

23

(Whereupon, Exhibit

24

Number 54 was marked for

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 252  
identification.)

2 - - -

3 BY MR. ARMSTRONG:

4 Q. Do you recognize that  
5 letter?

6 A. Yes, I do.

7 Q. Did you receive the  
8 original of that letter?

9 A. I think so.

10 Q. Let me show you a copy of a  
11 document which I will ask the court  
12 reporter to mark as exhibit 55 for  
13 identification.

14 - - -

15 (Whereupon, Exhibit  
16 Number 55 was marked for  
17 identification.)

18 - - -

19 BY MR. ARMSTRONG:

20 Q. Do you recognize that  
21 document?

22 A. I think so.

23 Q. Do you know who prepared  
24 it?

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 253

1 A. I believe this was prepared

2 by Lorraine and I.

3 Q. Let me show you a copy of a  
4 letter dated August 28 of 2003 which I  
5 ask the court reporter to mark as exhibit  
6 56 for identification.

7 - - -

8 (Whereupon, Exhibit  
9 Number 56 was marked for  
10 identification.)

11 - - -

12 BY MR. ARMSTRONG:

13 Q. Do you recall receiving  
14 that letter, sir?

15 A. Yes, I remember receiving  
16 this.

17 Q. Let me show you a copy of  
18 an e-mail dated November 26 of 2003 that  
19 I will ask the court reporter to mark as  
20 exhibit 57 for identification.

21 - - -

22 (Whereupon, Exhibit  
23 Number 57 was marked for  
24 identification.)

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 254

1 - - -

2 BY MR. ARMSTRONG:

3 Q. Do you recall receiving  
4 that e-mail?

5 A. Yes, I do.

6 Q. Do you know whether you  
7 continued to charge rent for any of these  
8 reefer containers or the chassis through  
9 the date they were delivered to JAX?

10 A. Again I would have to go  
11 back to each individual unit.

12 Q. Do you know where those  
13 particular units were located?

14 A. When?

15 Q. The ones you wanted shipped  
16 to JAX?

17 A. They were inside the Sea  
18 Star terminal in San Juan.

19 Q. Let me show you a copy of  
20 an e-mail dated December 10 of 2003 that  
21 I will ask the court reporter to mark as  
22 exhibit 58 for identification.

23 - - -

24 (Whereupon, Exhibit

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 255  
Number 58 was marked for

identification.)

- - -

BY MR. ARMSTRONG:

Q. Do you recall that  
document?

A. I think so.

Q. Is that draw and correct  
copy of an e-mail that you sent?

A. I believe so.

Q. Were the chassis or reefers  
and chassis carried by Sea Star from San  
Juan for JAX?

A. I believe so.

Q. Let me show you a copy of a  
handwritten document dated January 14 of  
2004 that I will ask the court reporter  
to mark as exhibit 59.

- - -

(Whereupon, Exhibit  
Number 59 was marked for  
identification.)

- - -

BY MR. ARMSTRONG:

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 256

1 Q. Is that draw a true and  
2 correct copy of a document that you  
3 wrote?

4 A. It is.

5 Q. Let me show you a copy of  
6 an e-mail dated -- two e-mails one dated  
7 February 19 of 2004 the other February 21  
8 of 2004 that I will ask the court  
9 reporter to mark as exhibit 60 for  
10 identification.

11 - - -

12 (Whereupon, Exhibit  
13 Number 60 was marked for  
14 identification.)

15 - - -

16 BY MR. ARMSTRONG:

17 Q. Do you recall those  
18 e-mails?

19 A. I believe I remember this.

20 Q. What action did you take  
21 with respect to that equipment?

22 A. I don't recall.

23 Q. Let me show you a series of  
24 e-mails which I will ask the court

ESQUIRE DEPOSITION SERVICES



1 Arthur B. Davis 257  
2 reporter to mark as exhibit 61 for  
3 identification.

4 - - -

5 (Whereupon, Exhibit  
6 Number 61 was marked for  
7 identification.)

8 - - -

9 BY MR. ARMSTRONG:

10 Q. Do you recall those  
11 e-mails?

12 A. I do recall this.

13 Q. All right.

14 What action did you take  
15 with respect to that equipment?

16 A. I believe this was brought  
17 back into the JAX yard.

18 Q. Let me show you a copy of a  
19 handwritten document dated May 11th of  
20 2004 and I will ask the court reporter to  
21 mark as exhibit 63 for -- I'm sorry --  
22 exhibit 62 for identification.

23 - - -

24 (Whereupon, Exhibit  
Number 62 was marked for

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 258  
identification.)

2 - - -

3 Q. Is that a true and correct  
4 copy of a letter that you wrote?

5 A. Yes.

6 Q. And what was your purpose  
7 in writing that letter?

8 A. To make sure -- just what  
9 it says that equipment should be released  
10 if I did not send an e-mail or a fax.

11 Q. Where was that equipment  
12 located?

13 A. It was located in Puerto  
14 Rico report at the Sea Star Line  
15 terminal.

16 Q. Was this equipment in  
17 storage at the Sea Star terminal?

18 A. It may have been.

19 Q. Who is Arturo?

20 A. As far as I understand he's  
21 the terminal manager.

22 Q. Whose terminal manager?

23 A. Sea Star Line.

24 Q. Who is Manuel?

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 259

1 A. Manuel Cabrarra from my  
2 understanding he gets involved with the  
3 equipment.

4 Q. For whom did he work?

5 A. Sea Star Line.

6 Q. Am I correct that you were  
7 instructing Sea Star Line employees not  
8 to release any Emerald equipment from the  
9 Sea Star terminal in May of 2004?

10 A. That is correct.

11 Q. Let me show you a copy of  
12 an e-mail dated August 11th of 2004 that  
13 I will ask the court reporter to mark as  
14 exhibit 63 for identification.

15 - - -

16 (Whereupon, Exhibit  
17 Number 63 was marked for  
18 identification.)

19 - - -

20 BY MR. ARMSTRONG:

21 Q. Do you recognize that  
22 document?

23 - - -

24 (Whereupon, a short

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 260  
recess was taken.)

2 - - -

3 Q. Let me show you a copy of  
4 an e-mail dated August 11th of 2004 which  
5 I had asked the court reporter to mark as  
6 exhibit 63 for identification.

7 Did you write and send that  
8 he e-mail?

9 A. Yes.

10 Q. Let me show you an e-mail  
11 dated August 19 of 2004 which I will ask  
12 the court reporter to mark as exhibit 64  
13 for identification.

14 - - -

15 (Whereupon, Exhibit  
16 Number 64 was marked for  
17 identification.)

18 - - -

19 BY MR. ARMSTRONG:

20 Q. Did you write and send that  
21 e-mail?

22 A. What?

23 Q. Did you write and send that  
24 e-mail?

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 261

1 A. I did.

2 Q. In that e-mail you list

3 various units, do you not?

4 A. Yes, I do.

5 Q. Were those units on rent to

6 Sea Star?

7 A. I would have to look at

8 each individual unit.

9 Q. You don't know as of August

10 19th of 2004 whether those were on rent?

11 A. If they were physically on

12 rent as of August 19th?

13 Q. Right.

14 A. No. They would not have

15 been on rent.

16 Q. Were they in storage at Sea

17 Star?

18 A. They were physically there

19 at the terminal in San Juan.

20 Q. Were you paying storage

21 charges for those units?

22 A. I wasn't paying storage

23 charges.

24 Q. Has Emerald ever paid

ESQUIRE DEPOSITION SERVICES

Arthur B. Davis 262

1 storage charges for units at Sea Star

2 Line's terminal in San Juan?

3 A. Emerald itself, no.

4 Q. Let me show you a copy of

5 an apparent draft letter dated January

6 20th of 2004 that I will ask the court

7 reporter to mark as exhibit 65 for

8 identification.

9 - - -

10 (Whereupon, Exhibit

11 Number 65 was marked for

12 identification.)

13 - - -

14 BY MR. ARMSTRONG:

15 Q. Have you ever seen that

16 document before?

17 A. I don't recall this and it

18 doesn't seem to necessarily make any

19 sense because it is talking about the

20 Bankruptcy Court Chapter 11 debtors and

21 Sea Star picking up assets and it's from

22 January of 2004. I don't know.

23 Q. It was produced by Emerald

24 Equipment Leasing, do you know where

ESQUIRE DEPOSITION SERVICES

1 Arthur B. Davis 263  
Emerald Equipment Leasing got it to

2 produce it?

3 A. I don't know. I don't  
4 recall. I don't know.

5 Q. You have never seen it  
6 before?

7 A. I don't recall it.

8 Q. All right.

9 Mr. Davis, have you ever  
10 been convicted of a crime?

11 A. No.

12 Q. You have the right to read  
13 and sign this deposition before it is  
14 filed and I believe that your counsel has  
15 already exercised that right on your  
16 behalf so we don't have to go through the  
17 rest of the options.

18 Thank you.

19 MR. MOLDOFF: I have  
20 no questions.

21 - - -

22 (Whereupon, the  
23 deposition concluded at 5:50 p.m.)

24 - - -

ESQUIRE DEPOSITION SERVICES

264

1 CERTIFICATE

2 I hereby certify that the  
3 witness was duly sworn by me and that the  
4 deposition is a true record of the  
5 testimony given by the witness;

6

7

8

9 \_\_\_\_\_  
Joseph Calavetta, R.P.R.

10 12-15-04

11

12

13 (The foregoing certification of this  
14 transcript does not apply to any  
15 reproduction of the same by any means,  
16 unless under the direct control and/or  
17 supervision of the certifying shorthand  
18 reporter.)

19

20

21

22

23

24

ESQUIRE DEPOSITION SERVICES

A-610



265

1 INSTRUCTIONS TO WITNESS

2 Please read your deposition over  
3 carefully and make any necessary changes.

4 You should assign a reason in the  
5 appropriate column on the errata sheet  
6 for any change made.

7 After making any change which has  
8 been noted on the following errata sheet,  
9 along with the reason for any change,  
10 sign your name to the errata sheet and  
11 date it.

12 You are signing it subject to the  
13 changes you have made on the errata  
14 sheet, which will be attached to the  
15 deposition. You must sign in the space  
16 provided.

17 Return the original errata sheet to  
18 the deposing attorney within thirty (30)  
19 days of receipt of the transcript by you.

20  
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24

ESQUIRE DEPOSITION SERVICES

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, \_\_\_\_\_, do hereby

3 certify that I have read the foregoing

4 pages, \_\_\_\_\_ and that the same is a

5 correct transcription of the answers

6 given by me to the questions therein

7 propounded, except for the corrections or

8 changes in form or substance, if any,

9 noted in the attached Errata Sheet.

10

11 \_\_\_\_\_

12 DATE

13

14 Subscribed and sworn to before me this

15 \_\_\_\_\_ day of \_\_\_\_\_,

16 200\_\_\_\_.

17 My commission expires: \_\_\_\_\_

18

19 \_\_\_\_\_

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21 Notary Public

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ESQUIRE DEPOSITION SERVICES

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1 -----

2 ERRATA

3 -----

4 PAGE LINE CHANGE

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ESQUIRE DEPOSITION SERVICES

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1 LAWYER'S NOTES

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ESQUIRE DEPOSITION SERVICES

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